

§ 262.2

45 CFR Ch. II (10–1–03 Edition)

(8) A penalty equal to the amount by which a State fails to meet its basic MOE requirement;

(9) A penalty of five percent of the adjusted SFAG for failure to comply with the five-year limit on Federal assistance;

(10) A penalty equal to the amount of contingency funds that were received but were not remitted for a fiscal year, if the State fails to maintain 100 percent of historic State expenditures in that fiscal year;

(11) A penalty of no more than five percent of the adjusted SFAG for the failure to maintain assistance to an adult single custodial parent who cannot obtain child care for a child under age six;

(12) A penalty of no more than two percent of the adjusted SFAG plus the amount a State has failed to expend of its own funds to replace the reduction to its SFAG due to the assessment of penalties in this section in the immediately succeeding fiscal year;

(13) A penalty equal to the amount of the State's Welfare-to-Work formula grant for failure to meet its basic MOE requirement during a year in which it receives the formula grant; and

(14) A penalty of not less than one percent and not more than five percent of the adjusted SFAG for failure to impose penalties properly against individuals who refuse to engage in required work in accordance with section 407 of the Act.

(b) In the event of multiple penalties for a fiscal year, we will add all applicable penalty percentages together. We will then assess the penalty amount against the adjusted SFAG that would have been payable to the State if we had assessed no penalties. As a final step, we will subtract other (fixed) penalty amounts from the adjusted SFAG.

(c)(1) We will take the penalties specified in paragraphs (a)(1), (a)(2) and (a)(7) of this section by reducing the SFAG payable for the quarter that immediately follows our final decision.

(2) We will take the penalties specified in paragraphs (a)(3), (a)(4), (a)(5), (a)(6), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), and (a)(14) of this section by reducing the SFAG payable for the fiscal year that immediately follows our final decision.

(d) When imposing the penalties in paragraph (a) of this section, the total reduction in an affected State's quarterly SFAG amount must not exceed 25 percent. If this 25-percent limit prevents the recovery of the full penalty amount imposed on a State during a quarter or a fiscal year, as appropriate, we will apply the remaining amount of the penalty to the SFAG payable for the immediately succeeding quarter until we recover the full penalty amount.

(e)(1) In the immediately succeeding fiscal year, a State must expend additional State funds to replace any reduction in the SFAG resulting from penalties.

(2) The State must document compliance with this replacement provision on its TANF Financial Report (or Territorial Financial Report).

§ 262.2 When do the TANF penalty provisions apply?

(a) A State will be subject to the penalties specified in § 262.1(a)(1), (2), (7), (8), (9), (10), (11), (12), (13), and (14) for conduct occurring on and after the first day the State operates the TANF program.

(b) A State will be subject to the penalties specified in § 262.1(a)(3), (4), (5), and (6) for conduct occurring on and after July 1, 1997, or the date that is six months after the first day the State operates the TANF program, whichever is later.

(c) For the time period prior to October 1, 1999, we will assess State conduct as specified in § 260.40(b) of this chapter.

§ 262.3 How will we determine if a State is subject to a penalty?

(a)(1) We will use the single audit under OMB Circular A-133, in conjunction with other reviews, audits, and data sources, as appropriate, to determine if a State is subject to a penalty for misusing Federal TANF funds (§ 263.10 of this chapter), intentionally misusing Federal TANF funds (§ 263.12 of this chapter), failing to participate in IEVS (§ 264.10 of this chapter), failing to comply with paternity establishment and child support requirements (§ 264.31 of this chapter), failing to maintain assistance to an adult single